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Federal Communications Commission
Washington, D.C. 20554

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SEP 18 1998

The Honorable Richard G. Lugar
United States Senate
306 Hart Senate Office Building
Washington, DC 20510

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Senator Lugar:

Thank you for your letter on behalf of your constituent, Mr. Thomas G. Rose, of the Coin Phone Management Company regarding contributions to the universal service support mechanisms from payphone service providers (PSPs).

As you know, on May 7, 1997, the Commission adopted an Order to implement the Federal-State Joint Board's recommendations on universal service as required by the Telecommunications Act of 1996 (1996 Act). The Commission established universal service support mechanisms that fulfill Congress's goal, as stated in Section 254 of the 1996 Act, of ensuring that affordable, quality telecommunications services are available to all American consumers, including low income consumers and those located in high cost, rural, and insular areas. Universal service support for carriers serving high cost areas and for low income consumers has been provided for decades. In the 1996 Act, Congress expanded universal service goals to ensure the nation's classrooms and libraries receive access to the vast array of educational resources that are accessible through the telecommunications network. These support systems also will link health care providers located in rural areas to urban medical centers so that patients living in rural America will have access, through the telecommunications network, to the same advanced diagnostic and other medical services that are available in urban communities.

In the 1996 Act, Congress required all telecommunications carriers that provide interstate telecommunications services to contribute on an equitable and nondiscriminatory basis to universal service. The Commission implemented this statutory provision by requiring all such telecommunications carriers to contribute to the universal service support mechanisms. Neither Congress, nor the Commission, requires such carriers to pass this contribution on to their customers. To the contrary, carriers decide how and to what extent they recover their contributions. Carriers, however, may not mislead customers as to how they recover contributions and may only recover an equitable share from any particular customer.

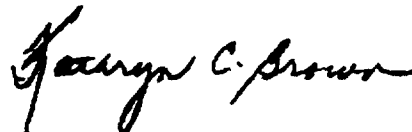
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Underlying carriers that provide service to PSPs that contribute directly to the universal service support mechanisms should not include revenue derived from the PSPs in their contribution base. Because the underlying carriers do not have to contribute on the basis of revenues from the PSPs, they should not be passing through to those PSPs their contribution obligation. Rather, the PSPs are contributing on the basis of revenues from their end-user customers, and may pass on their contribution obligation to their customers. As to the Petition for Reconsideration filed by the American Public Communications Council that Mr. Rose mentioned in his letter, that petition is pending before the Commission.

The Commission is monitoring the universal service support mechanisms and their impact on telephone ratepayers. This issue will be carefully reviewed as the support mechanisms are administered.

Your letter has been placed in the official public record of the universal service proceeding (CC Docket No. 96-45). I appreciate your interest in these important issues.

Sincerely,

A handwritten signature in cursive script, reading "Kathryn C. Brown".

Kathryn C. Brown

Chief

Common Carrier Bureau

RICHARD G. LUGAR
INDIANA

306 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510
202-224-4814

United States Senate

WASHINGTON, DC 20510-1401

March 27, 1998

COMMITTEES
AGRICULTURE, NUTRITION, AND FORESTRY
CHAIRMAN
FOREIGN RELATIONS
SELECT COMMITTEE
ON INTELLIGENCE

CLB
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2737

Ms. O. Lou Sizemore
Congressional Liaison
Federal Communications Commission
1919 "M" Street, NW
Washington, D.C. 20554

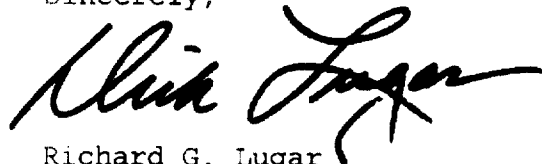
Dear Ms. Sizemore:

Because of the desire of this office to be responsive to all inquiries and communications, your consideration of the attached is requested.

Your findings and views, in duplicate form, along with the return of the enclosure, will be greatly appreciated. Please direct your reply to the attention of Darlee Williams of my Washington office.

Thank you for your thoughtful attention.

Sincerely,



Richard G. Lugar
United States Senator

RGL/dwl
enclosure



Coin Phone Management Company

March 11, 1998

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1846 Cargo Court
Louisville, KY 40299
(502) 499-5885
(502) 499-8963 Fax

Senator Richard G. Lugar
SH-306 Hart Senate Office Bldg.
Washington, DC 20510-1401

RE: Double Payment into the Universal Service Fund by Payphone Service Providers

Dear Senator Lugar:

My company owns and operates payphones in your state. I am writing to request your assistance in a matter of great importance to my company and the many users and operators of payphones located within your state: the **double billing** of Universal Service Fund ("USF") charges against payphone service providers ("PSPs"). As you are aware, the 1996 Telecommunication Act ("the Act") created a Universal Service Fund to subsidize the costs associated with providing telecommunications to people with low-incomes and high-cost areas as well as providing improved telecommunications services to schools and libraries and rural health care providers. PSPs are willing to share in supporting the USF, but do not believe they should be assessed double.

The USF is funded through contributions from telecommunications providers. Twice a year, telecommunications providers must file FCC Form 457 which the government uses to bill the providers for the USF based on a percentage of the provider's "end user" revenues. Currently, PSPs are required to contribute directly into the USF by paying USF charges on the coin revenues they collect.

Like PSPs, local telephone companies (referred to as "LECs" or "local exchange carriers") and long distance carriers are required to contribute directly to the USF. However, PSPs are treated as "end users" by LECs *and* by long distance carriers, meaning that LECs and long distance carriers pay a percentage of the revenues they receive from payphone providers into the USF. The LECs and long distance carriers then pass on the USF charges they incur. PSP monthly bills from LECs and long distance companies now include USF charges.

Because PSPs are treated as an "end user" by the LECs and long distance companies *and* contribute directly to the USF, PSPs are effectively being double billed for the USF. This approach is inequitable and discriminatory with respect to PSPs and, therefore, is inconsistent with section 254(b)(4) of the Act which requires fairness in USF funding. PSPs are one of the only telecommunications providers similarly situated that are *both* treated as an end user *and* must *again* contribute based on their own revenues. For example, hotels, motels and universities have a similar operational structure to payphone providers in that they are reselling phone service, but unlike PSPs, these groups are not required to make direct USF contributions.

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Senator Richard G. Lugar
March 11, 1998
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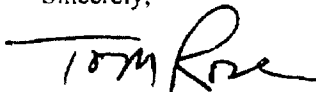
While the FCC's rules on collecting money for the USF currently include PSPs, my industry trade association -- the American Public Communications Council ("APCC") -- filed a Petition for Reconsideration in July of last year asking the FCC to exempt payphone providers from directly paying into USF because of their unique circumstances. Unfortunately, the FCC has not acted on APCC's Petition. **Therefore, I am requesting that you use your best efforts to encourage the FCC to re-evaluate the hardship its USF rules have created for PSPs and to rule quickly and favorably on APCC's Petition for Reconsideration.** The inequity of the situation must be addressed without any further hesitation and delay, as my company and other payphone providers in your state have already been forced to make excessive payments into the USF.

The solution to this unfair situation is to exempt PSPs from directly contributing into the USF. PSPs contribute their fair share into the USF through the charges LECs and long distance companies pass onto them. Because PSPs, like the hotels, motels and other types of businesses that resell communications services, are typically small to average sized companies, the administrative burden for the government to collect directly from thousands of PSPs far outweighs any benefits to the USF. It makes far more sense for the government to collect revenues from the significantly larger LECs and long distance companies and let these companies pass their costs onto PSPs than it does to try and collect directly from such small contributors.

Encouraging the FCC to act on APCC's Petition favorably to ban these double billing practices would also help ensure that PSPs have the ability to continue offering reasonably priced payphone services to state residents and travelers. Passing the USF charge, like long distance companies and LECs can and do, would require that we as payphone providers increase the local coin rates. We do not want to have to impose hardship on all end users of payphones. Yet if the double billing situation is unchanged, payphone providers may be forced to consider that option in order to continue to provide service.

Your efforts on our behalf are greatly appreciated. If you have any questions about payphone operation or this situation, please contact me at the above address and telephone number.

Sincerely,



Thomas G. Rose
President